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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,838	10/24/2003	Galen C. Hunt	MSI-1778US	1011
22801	7590	10/14/2008	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			BATES, KEVIN T	
ART UNIT	PAPER NUMBER			
	2456			
MAIL DATE	DELIVERY MODE			
10/14/2008	PAPER			

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/693,838	Applicant(s) HUNT ET AL.
	Examiner Kevin Bates	Art Unit 2456

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(o).

Status

- 1) Responsive to communication(s) filed on 15 September 2008.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-47 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-47 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date 9-15-08, 8-26-08, 6-10-08.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application
 6) Other: _____

Response to Amendment

This Office Action is in response to a communication made on September 15, 2008.

The Information Disclosure Statements filed June 10, 2008, August 26, 2008, and September 15, 2008 have been considered.

Claims 1, 17-31, 39, and 42 are currently amended.

Claims 1-47 are pending in this application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-7, 10-22, 24-28, 30-34, 37-45, and 47 are rejected under 35 U.S.C. 102(b) as being anticipated by McNally (6259448).

Regarding claims 1, 17, and 25, McNally teaches a method comprising:
using a system definition model in a development phase of a system to design the system (Column 6, lines 25 – 33; Column 8, lines 31 – 36);
subsequently using the system definition model in a deployment phase of the system to deploy the system on one or more computing devices (Column 8, lines 1 – 12); and

after deployment of the system, using the system definition model in a management phase of the system to manage the system deployed on the one or more computing devices (Column 10, lines 1 – 25; lines 41 – 45).

Regarding claim 31, McNally teaches a system comprising:
a processor; and a plurality of executable instructions which, when executed by the processor, perform operations comprising:
using a system definition model in a development phase of a system to design the system (Column 6, lines 25 – 33; Column 8, lines 31 – 36);

subsequently using the system definition model in a deployment phase of the system to deploy the system on one or more computing devices (Column 8, lines 1 – 12); and

after deployment of the system, using the system definition model in a management phase of the system to manage the system deployed on the one or more computing devices (Column 10, lines 1 – 25; lines 41 – 45); and

a schema to dictate how functional operations within the system definition model are to be specified (Column 6, lines 25 – 42).

Regarding claim 42, McNally teaches a method comprising:
using a system definition model in a development phase of a system to design the system (Column 6, lines 25 – 33; Column 8, lines 31 – 36);
subsequently using the system definition model in a deployment phase of the system to deploy the system on one or more computing devices (Column 8, lines 1 – 12); and

after deployment of the system, using the system definition model in a management phase of the system to manage the system deployed on the one or more computing devices (Column 10, lines 1 – 25; lines 41 – 45).

prior to the design, deployment, and management of the system,

using another system definition model to design an environment, wherein the system is deployed to the environment on the one or more computing devices;

subsequently using the other system definition model to deploy the environment one the one or more computing devices; and

after deployment of the environment, using the other system definition model to manage the environment deployed on the one or more computing devices (Column 8, lines 31 – 36; Column 7, lines 26 – 39);

wherein the system definition model includes constraints that must be satisfied by the environment in order for the system to be run on the one or more computer device, and wherein the other system model definition model includes other constraints that must be satisfied by the system in order for the system to be run on the one or more computer devices (Column 6, lines 56 – 61).

Regarding claims 2 and 18, McNally teaches a method as recited in claims 1 and 17, wherein the system comprises an application (Column 6, lines 17 – 24).

Regarding claims 3 and 19, McNally teaches a method as recited in claims 1 and 17, wherein the system comprises an environment (Column 6, lines 17 – 24).

Regarding claims 5, 20, 26, 32, and 43, McNally teaches a method as recited in claims 1, 17, 25, 31, and 42, wherein the system definition model includes knowledge

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describing how to deploy the system on the one or more computing devices (Column 8, lines 1 – 12).

Regarding claims 6, 21, 27, 33, and 44, McNally teaches a method as recited in claims 1, 17, 25, 31, and 42, wherein the system definition model includes knowledge describing how to deploy the system on multiple different computing devices, and wherein the knowledge includes different knowledge describing how to deploy the system on each of the multiple different computing devices (Column 8, lines 1 – 12).

Regarding claims 7, 22, 28, 34, and 45, McNally teaches a method as recited in claims 1, 17, 25, 31, and 42, wherein the system definition model includes constraints that must be satisfied by the one or more computing devices in order for the system to be run on the one or more computing devices (Column 6, lines 56 – 61).

Regarding claims 10, 24, 30, 37, and 47, McNally teaches a method as recited in claims 1, 17, 25, 31, and 42, wherein the system definition model includes knowledge describing how to manage the system after deployment of the system (Column 10, lines 41 – 45).

Regarding claim 11, McNally teaches a method as recited in claim 1, further comprising: during management of the system, using a flow to automatically propagate a configuration change to the system (Column 11, lines 45 – 56).

Regarding claim 12, McNally teaches a method as recited in claim 1, wherein the system is deployed to an environment on the one or more computing devices, the method further comprising, prior to the design, deployment, and management of the system: using another system definition model to design the environment;

subsequently using the other system definition model to deploy the environment on the one or more computing devices; and after deployment of the environment, using the other system definition model to manage the environment deployed on the one or more computing devices (Column 8, lines 31 – 36).

Regarding claim 13, McNally teaches a method as recited in claim 12, wherein the system definition model for the environment is derived through examination of the configuration of one or more computing devices (Column 7, lines 34 – 39).

Regarding claim 14, McNally teaches a method as recited in claim 12, wherein the system definition model includes constraints that must be satisfied by the environment in order for the system to be run on the one or more computing devices, and wherein the other system definition model includes other constraints that must be satisfied by the system in order for the system to be run on the one or more computing devices (Column 6, lines 56 - 61).

Regarding claim 15, McNally teaches a method as recited in claim 1, wherein a plurality of environments are deployed on the one or more computing devices, the method further comprising: using a plurality of different system definition models to design each of the plurality of environments, wherein each of the plurality of environments is associated with one of the plurality of different system definition models; using, for each environment, the associated one of the plurality of different system definition models to deploy the environment; and after deployment, using, for each environment, the associated one of the plurality of different system definition models to manage the environment (Column 8, lines 31 – 36; Column 7, lines 26 – 39).

Regarding claim 16, McNally teaches a method as recited in claim 15, wherein each of the plurality of environments is layered, and wherein each of the plurality of environments serves as environment to one other of the plurality of environments or to the system (Column 8, lines 31 - 36).

Regarding claim 38, McNally teaches a system as recited in claim 31, wherein the system further comprises: another system definition model applicable across a lifecycle of an environment, wherein the lifecycle of the environment includes design of the environment, deployment of the environment, and management of the environment; and wherein the schema is further to dictate how functional operations within the other system definition model are to be specified (Column 8, lines 31 – 36; where the reference teaches the reference models are used for each element a "web").

Regarding claim 39, McNally teaches a system as recited in claim 38, wherein the system definition model for the environment is derived through examination of the configuration of one or more computing devices (Column 7, lines 34 – 39).

Regarding claim 40, McNally teaches a system as recited in claim 38, wherein the system definition model includes constraints that must be satisfied by the environment in order for the application to be run on the environment, and wherein the other system definition model includes other constraints that must be satisfied by the application in order for the application to be run on the environment (Column 6, lines 56 – 61).

Regarding claim 41, McNally teaches a system as recited in claim 38, wherein the system further comprises: an additional system definition model applicable across a

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lifecycle of an additional environment, wherein the lifecycle of the additional environment includes design of the additional environment, deployment of the additional environment, and management of the additional environment; wherein the additional environment is layered below the environment; and wherein the schema is further to dictate how functional operations within the additional system definition model are to be specified (Column 8, lines 31 – 36; where the reference teaches the reference models are used for each element a "web").

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 4, 8-9, 23, 29, 35-36, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over McNally in view of Weldon (7117158).

Regarding claim 4, McNally teaches a method as recited in claim 1.

McNally does not explicitly indicate using knowledge obtained during management of the system to design a subsequent version of the system.

Weldon teaches a system of design, deploying and managing a distributed application (Abstract) that includes using design cycles to use previous versions to update and create new versions of the system (Column 12, lines 14 - 44).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Weldon's teaching of version tracking in McNally's system to allow logging multiple versions of the system and allow for more organized system updating.

Regarding claims 8, 23, 29, 36, and 46, McNally teaches a method as recited in claims 7, 22, 28, 34, and 48.

McNally does not explicitly indicate wherein the system definition model can be used to check whether the constraints are satisfied by the one or more computing devices during design of the system.

Weldon teaches the system definition model can be used to check whether the constraints are satisfied by the one or more computing devices during design of the system (Column 5, lines 39 – Column 6, line 24).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Weldon's teaching of testing elements in the design system to allow the designers to determine if the system is operating properly.

Regarding claim 9 and 35, McNally teaches a method as recited in claims 7 and 34.

McNally does not explicitly indicate wherein the system definition model can be used to check whether the constraints are satisfied by the one or more computing devices during design of the system and during management of the system.

Weldon teaches the system definition model can be used to check whether the constraints are satisfied by the one or more computing devices during design of the

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system (Column 5, lines 39 – Column 6, line 24; Column 10, line 56 – Column 12, line 44, where Weldon teaches the testing process being performed through the lifecycle of the system).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Weldon's teaching of testing elements in the design and management system to allow the designers to determine if the system is operating properly.

Response to Arguments

Applicant's arguments filed September 15, 2008 have been fully considered but they are not persuasive.

Regarding claims 1, 5, 6, 17, 25, 31, and 42, the applicant argues that McNally does not disclose performing the claimed limitations during the newly amended "phases", the development, deployment, and management phase of the system. These added "phases" are only labels in add no functionality to the claimed invention. As result, these limitations contain only **non-functional descriptive language and have no patentable weight**. Since they are provided with no patentable weight, the McNally reference does not need to disclose the same "phases" as described in the claimed invention and covers all the functional limitations.

The applicant argues that the model in McNally only contains the information needed to manage the resource and does indicate any properties that allow the model to be used in design or deployment of the resource. The examiner disagrees, the

limitation is directed towards the development, deployment, and management of a "system." A system is a very broad concept and does not necessarily map to the "resource" in McNally. McNally discloses a "system" for controlling and managing one or more devices on the network (Column 6, lines 25 – 33; Column 8, lines 31 – 36), where the resources already exist on the network of one or more computing devices. This "system" gets developed, deployed, and managed on the network (Column 10, lines 1 – 25; lines 41 – 45).

Regarding claims 14 and 42, the applicant argues that "McNally does not disclose any description of resource model constraints that apply to resources other than those to which the resource models are deployed." The claimed invention does not contain any limitations which require the model constraints to apply to resources other than those on which the models are getting deployed. The only requirement is that their are constraints that must be satisfied for the system to run on one or more computing devices. If the model is getting deployed on the modeled resources, then it meets this limitation.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Bates whose telephone number is (571)272-3980. The examiner can normally be reached on 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on (571) 272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kevin Bates/

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